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IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

Patrick J. Schottler

plaintiff,

v.

ORDER
99-C-638-S

State of Wisconsin Chief Shirley Abrahamson, Donald W. Steinmetz, William A. Bablitch, John P. Wilcox, Ann Walsh Bradley, David Prosser, Mary E. Burke, James E. Doyle, Tommy Thompson. P.J Cane, Thomas Cane, Eric J. Lndell, Dennis Erickson, C.A. Richards, Scott Needham and Patrick Crooks.

defendants.

The Court having now received the mandate in the above entitled matter affirms the order and judgment previously entered herein on July 6, 2000.

Entered this 31st day of July, 2000.

BY THE COURT:

JOHN C. SHABAZ
District Judge

1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

No. 99-4364

On July 18, 2000

Before

Hon. John L. Coffey, Circuit Judge

Hon. Frank H. Easterbrook, Circuit Judge

Hon Terence T. Evans, Circuit Judge

Order

Plaintiff-appellant filed a petition for rehearing on July 5, 2000. All of the judges on the panel have voted to deny rehearing. the petition for rehearing is there fore DENIED.

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

No. 99-4364

submitted june 19, 2000
Decided june 26, 2000

Before

Hon. John L. Coffey, Circuit Judge

Hon. Frank H. Easterbrook, Circuit Judge

Hon Terence T. Evans, Circuit Judge

After release from prison, where Wisconsin had confined him for 90 days following his conviction for disorderly conduct, Patrick Schottler filed this action under 42 U.S.C. §1983 demanding the expungement of his conviction and $30 million in damages. The district court dismissed the action on the pleadings, ruling that the state judges have absolute immunity, and that the Rooker-feldman doctrine, which holds that federal courts may not review the judgments of state courts, blocks Schotler's remaining claims. See Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923);

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foot note by Judge

After an examination of the briefs and the record, we have concluded that oral argument is unnecessary, and the appeal is submitted on the briefs and the record. See Fed. R. App. P. 34(a); Cir. R. 34(f).

District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983).

We start with the claim against Wisconsin. The Eleventh Amendment would be relevant if a state were a "person" within the scope of §1983, for then the court would have to decide whether §5 of the fourteenth Amendment authorizes Congress to execise such a power. But the Supreme Court has held that a state is not a "person," so that no constitutional question arises. See Arizonans for Official English V. Arizona, 520 U.S. 43, 69 (1997); Will v. Michigan Department of State Police, 491 U.S. 58 (1989). The claim against Wisconsin must be dismissed because §1983 does not apply.

As for the Rooker-Feldman doctrine: although federal courts (other than the Supreme Court) may not review state-court decisions in civil litigation, they regularly review the validity of criminal convictions, see 28 U.S.C. §2241, §2254, and this is one thing Schottler wants. His problem is not the Rooker-Feldman doctrine but the lack of "custody." Because he waited until after his release to commence this suit, federal collateral attack is impossible. And because his state conviction has not been overturned on appeal or by collateral attack, §1983 does not authorize money damages. Indeed, given Heck V. Humphrey, 512 U.S. 477 (1984), no claim for damages has even accrued, making it premature to consider any other issue. If in the future a state court should annul the conviction, a potential claim under §1983 then would come into being. In that event the judicial defendants, at least, would have absolute immunity, but the lack of a claim means that no affirmative defense is yet relevant.

Schottler believes that some of the things that happened to him in prison violate the first amendment or the eighth Amendment (both applied to the states through the fourteenth), but none of the defendants in this case controlled the conditions of his confinement. These claims, to the extent we can decipher them, also appear to be substantively frivolous. For example, Schottler contends that Wisconsin violated the free Exercise Clause of the First Amendment because it would not let him out of prison every sunday to attend church. If such claims are made again, say against the prison's warden, the district court sould consider imposing sanctions. But we need not pursue the matter now.

The judgment of the district Court is vacated, and the case is remanded with instructions to dismiss the suit against the state with prejudice (rather than for want of jurisdiction, as the district court did) and to dismiss the suit against the individual defendants without prejudice under Heck.

JUDGMENT WITH OUT ORAL ARGUMENT

the judgment of the District Court is VACATED and this cause is REMANDED with instructions to dismiss the suit against the State with prejudice and to dismiss the suit against the individual defendants without prejudice under Heck, in accordance with the decision of this court entered on this date. Costs are awarded in favor of the appelees.

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

Patrick J. Schottler

plaintiff,

v. 99-C-638-S

State of Wisconsin Chief Shirley Abrahamson, Donald W. Steinmetz, William A. Bablitch, John P. Wilcox, Ann Walsh Bradley, David Prosser, Mary E. Burke, James E. Doyle, Tommy Thompson. P.J. Cane, Thomas Cane, Eric J. Lndell, Dennis Erickson, C.A. Richards, Scott Needham and Patrick Crooks.

defendants.

Memorandum and order Dec 1, 1999

Plaintiff commenced this civil action on October 24, 1999 and paid the filing fee. He seeks thirty million dollars in damages together with the reversal of his state criminal conviction.

On November 10, 1999 defendants state of Wisconsin, Chief Shirley Abrahamson, Donald W. Steinmetz, William A. Bablitch, John P. Wilcox, Ann Walsh Bradley David Prosser, Mary E. Burke, James E. Doyle, Tommy Thompson, P. J. Cane, Thomas Cane, Eric J. Lundell, Dennis Erickson, C.A. Richards, Scott Needham and Patrick Crooks moved to dismiss plaintiff's complaint. Plaintiff responded to this motion on November 23, 1999. No further briefing is required.

A complaint should be dismissed for failure to state a claim only if it appears beyond a reasonable doubt that the plaintiffs can prove no set of facts in support of the claim which would entitle the plaintiffs to relief. Conley V. Gibson, 355 U.S. 41, 45-46 (1957). In order to survive a challenge under Rule 12(b)(6) a complaint "must contain either direct or inferential allegations respecting all the material elements necessary to sustain recovery under some viable legal theory." Car Carriers, Inc. v. Ford Motor Co., 745 F. 2d 1101, 1106 (7th Cir. 1984).

FACTS

For purposes of deciding defendant's motion to dismiss the facts alleged in plaintiff's complaint are taken as true.

Plaintiff Patrick J. Schottler is an sdult resident of Wisconsin. Defendants Chief Shirley Abrahamson, Donald W. Steinmetz, William A. Bablitch, John P. Wilcox, Ann Walsh Bradley, David Prosser and Patrcik Crooks are justices of the Wisconsin Supreme Court. Defendants P. J. Cane and Thomas Cane are Wisconsin Court of appeals judges. Defendants Eric J. Lundell, C.A. Richards and Scott Needham are St. Croix county Circuit Court judges. Defendant James E. Doyle is the Attorney General for the state of Wisconsin, and defendant Mary E. Burke is an assistant Attorney general. Defendant Dennis Erickson is an assistant district attorney for St. Croix County. Defendant Tommy Thompson is the Governor of Wisconsin.

In 1995 and 1996 plaintiff was prosecuted in St. Croix County for disorderly conduct. In January 1997 plaintiff was convicted and sentenced to 90 days in jail by defendant Judge Lundell. Plaintiff's conviction was summarily affirmed by Judge R. Thomas Cane of The Wisconsin Court of Appeals. Plaintiff petitioned for review by the Wisconsin Supreme Court. Defendants James E. Doyle and Mary E. Burke opposed the petition. In Novermber 1997 the Wisconsin Supreme Court denied plaintiff's petition for review. In January 1998 the Court denied plaintiff's motion for a rehearing.

In January 1999 Governor Thompson's office advised plaintiff that he did not have authority to become involved in this case.

MEMORANDUM

Defendant State of Wisconsin moves to dismiss plaintiff's complaint for money damages against the State of Wisconsin on the basis of Eleventh Amendment immunity. the State of Wisconsin is immune from suit for money damages. See Quern V. Jordan, 440 U.S.C. 332, 337 (1979). Accordingly, plaintiff's claim against the State of Wisconsin for money damages will be dismissed.

Defendant justices Chief Shirley Abrahamson, Donald W. Steinmetz, William A. Bablitch, John P. Wilcox, Ann Walsh Bradley, David Prosser, Patrick Crooks and judges P.J. Cane, Thomas Cane, Eric J. Lundell, C.A. Richards and Scott Needham move to dismiss plaintiff's complaint for money damages on the basis of judicial immunity. Judges are immune from suit for money damages for acts taken in their judicial capacity except when they act in the clear absence of all jurisdiction. Stump v.

Sparkman, 435 U.S. 349, 355-56, reh. Denied, 436 U.S. 9561 (1978). Plaintiff alleges that the defendant judges were acting in their judicial capacity. Accordingly, they are immune from suit for money damages.

Defendants Doyle, Burke and Erickson move to dismiss plaintiff's claim for money damages on the basis of prosecutorial immunity. A prosecutor has absolute immunity for initiating a prosecution and presenting the state's case. Imbler v. Pachtman, 424 U.S. 409, 431 (1976). Plaintiff alleges that defendant Erickson prosecuted a case against him and that defendants Doyle and Burke opposed his petition for review on behalf of the state. These defendants are absolutely immune from suits for money damages.

Plaintiff appears to be also asking that his state criminal case be reversed. This court lacks authority to review final judgments of a state court. See district of columbia Court of Appeals v. Feldman, 460 U.S. 476, 482 (1983); Rooker v. Fidelity Co., 263 U.S. 413-415-416 (1923). Plaintiff's claim for injunctive relief, the reversal of his conviction against the state defendants will be dismissed.

Defendant Tommy Thompson moves to dismiss plaintiff's complaint for failure to state a claim upon which relief may be granted. Plaintiff has alleged no facts that support a claim that defendant Thompson violated plaintiff's constitutional rights. Accordingly, plaintiff's complaint against defendant Thompson will be dismissed.

Plaintiff has not stated a claim for relief under federal law against any of the named defendants. Accordingly, their motion to dismiss will be granted.

ORDER

IT IS ORDERED that the defendants' motion to dismiss plaintiff's complaint is GRANTED.

IT IS FURTHER ORDERED that judgment is entered in favor of defendants against plaintiff DISMISSING his complaint and all claims contained therein with prejudice and costs.

Entered this 1st day of December, 1999.

BY THE COURT:

JOHN C. SHABAZ
District Judge

ARTICLE III

Section 1. The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Section 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; -to all cases affecting ambassadors, other public ministers and consuls; -to all cases of admiralty and maritime jurisdiction; -to controversies to which the United States shall be a party; -to controversies between two or more states; -between a state and citizens of another state; -between citizens of different states; -between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the othercases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial

shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Section 3. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treson unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE VI

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authourity of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation , to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII

The ratification of the conventions of nine stats, shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

Done in convention by the unanimous consent of the states present the seventeenth day of september in the year of our lord one thousand seven hundred and eighty seven and of the independence of the United States of America the twelfth.

AMENDMENTS TO THE U.S. CONSTITUTION

The first 10 Amendments were ratified December 15, 1791, and form what is known as the "Bill of Rights"

AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

AMENDMENT XI

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

AMENDMENT XIV
(Ratified July 9, 1868)

Section 1. All persons born or naturalized in the united States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Section 3. no person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of congress, or as an officer of the United

States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each house, remove such disability.

Section 4. The validity of the public debt of the United States authouized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illigal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

UNITED STATES COMMISSION ON CIVIL RIGHTS
624 NINTH STREET, N.W.
Washington, D.C. 20425

Pat Schottler
626 Valley View Terrace
Somerset, WI 54025

January 29, 1999

Dear Ms. Schottler

The United States Commission on Civil Rights recently received your complaint.

The Commission was established to conduct studies, hold hearings, issue reports, and serve as a national clearinghouse for civil rights information. As such, the Commission has no authority to provide direct remedial assistance or offer an opinion as to the soundness or individual allegations.

In order to be helpful, we have forwarded your complaint to:

Ms. Diane Roberts
Correspondence & Record Management Unit
U.S. Department of Justice
10th & Constitution Avenue, N.W.
Washington, DC 20530

This agency is authorized to help resolve the problem you described. We have requested that the agency notify you in writing concerning all actions taken to resolve your complaint. You should forward any additional information or correspondence directly to the aforementioned referral agency or contact Ms. Roberts at (202) 514-3826

Thank you for writing the Commission.

Sincerely, FREDERICK D. ISLER
Ast Stf Dr Office of Civil Rights Evaluation

From Pat Schottler
626 Valley View Trail
Somerset WI 54025

To the Judicial Commission
110 E. Main St Suite 606
Madison WI 53703-3328

(Date Unknown after Gov letter January 26, 1999)

I suspect I'm getting the Run around.

I was asked to contact you by the Governors Office about complaints against Judges. (page 2)

It is my Understanding that this judicial counsel answers to The Wisconsin Supreme Court which issues the desicions.

I have had problems with judges under there super vision not following the laws of the United States Constitution and did appeal my case to the Wisconsin Supreme Court who felt the Lower Judges didn't need to follow the Laws of this country & didn't feel they needed to review this case.

Esencially my problem is with the Wisconsin Supreme Court for not maintaining the Constitution & Allowing the Judges below them not to maintain it either.

If you read this case you will see that I did indeed appeal to the Federal Supreme Court in which the Clerk pulled a routeen clever manuver so the federal judges would never see it.

I've been in the Run around plenty of times I know it nearly as well as the people who give it. Some may not even know there a part of it such as you.

Not to slight the governor but he doesn't want to take responsibility (because of the consiquences) so he gives it to his policy assistant. who won't take responsibiliyt but directs it to you.

So as to clarify who & what I am & what I stand for & EXPECT.

I am the type of person who can would & will take this case up with the Wisconsin Supreme Court point out that they screwed up and

EXPECT THEM TO CORRECT IT

OUT OF THERE OWN VOLINTARY ATHOURITY TO DO SO. eVERY BODY MAKES MISTAKES EVEN i DO WHICH IS WHY i WAS BROUGHT INTO COURT IN THE FIRST PLACE i DIDN'T KNOW THE WOMAN WAS MARRIED & i TOLD THEM sO.

The Constitution garenties I can make mistakes with woxrds & No law can be passed to abridge that.

They were not using words when they threw me in jail & wouldn't let me go to church.

Foot note by Pat Schottler

(The Judicial Commision NEVER responded)

STATE OF WISCONSIN
Office of the Governor

January 26, 1999

Pat Schottler
626 Valley View Trail
Somerset Wi 54025

Dear Mr. Schottler:

Thank you for your letter. Governor Thompson asked me to respond to you directly.

I regret to inform you that it is beyond the Governors authority to become involved in legal cases, such as the one you described in your letter. The Governor's Office cannot provide legal advice or counsel. If you believe the judge in your case acted inappropriately, please contact the Wisconsin Judicial Commission to register a complaint. Their address is 110 E. Main St., Suite 606, Madison, WI 53703-3328. The phone number is 608/266-7637.

Thank you again for contacting the Office of the Governor.

Sincerely.

BRIAN RIEDL
Policy Assistant

SUPRMEM COURT (OF WISCONSIN)

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110 E. Main Street, Suite 715
P.O. Box 1688
Madison, Wisconsin 53701-1688

Telephone (608)-266-1880
Facsimile (608)-267-0640

Mar 27, 1998

To hon Eric J. Lundell
St. Croix County Circuit Court

To Dennis W. Erickson
St. Croix County Asst. Dist. Atty.

To Patrick J. Schottler
Somerset, WI 54025

To Mary E. Burke
Assistant Attorney Gerneral

You are here by notified that the Court has entered the following order:

No. 97-0289-CR State V. Schottler L.C.#95CM509

Defendant-appellant, Patrick Schottler, has attempted to refile a petition for review in this matter, the original petition having been denied on November 20, 1997 and the subsequent motion for reconsideration having been dismissed on January 21, 1998.

IT IS ORDERED that this latest document shall not be accepted as a properly and timely filed petition for review. Pursuant to the earlier orders, this case is closed in this court. The clerk is directed to place any further attempted filing from Schottler into the closed file with out response.

State of Wisconsin
Department of Justice

James E. Doyle
Attorney General
Burneatta L. Bridge
Deputy Attorney General

May 8, 1998

Pat Schottler
626 Valley View Trail
Somerset, WI 54025

Dear Pat Schottler:

Washington County Circuit Court Judge Annette Ziegler referred your April 28 letter to her to Attorney General James Doyle for resoponse. Attorney General Doyle has asked me to respond.

This office likely would represent the state in any appellate litigation arising from your criminal conviction or the assertions made in your letter. For me to comment on your claims therefore would pose a conflict of interest. you may wish to contact the state public defender for further information about legal resources available to convicted offenders. That address is:

Wisconsin State Public Defender
Appellate Division
P.O. Box 7862
madison, WI 53707-7862

I am sorry that I cannot be of further assistance.

Cordially

Mary I. Burke Assistant Attorney General
Director, Criminal appeals Unit

c. Judge Annette K. Ziegler

SUPRMEM COURT (OF WISCONSIN)

---

110 E. Main Street, Suite 715
P.O. Box 1688
Madison, Wisconsin 53701-1688

Telephone (608)-266-1880
Facsimile (608)-267-0640

● Nov 20 1997 ●

To hon Eric J. Lundell
St. Croix County Circuit Court

To Dennis W. Erickson
St. Croix County Asst. Dist. Atty.

To Patrick J. Schottler
Somerset, WI 54025

To Mary E. Burke
Assistant Attorney Gerneral

You are here by notified that the Court has entered the following order:

No. 97-0289-CR State V. Schottler L.C.#95CM509

A petition for review pursuant to Wis. Stat. 808.10 having been filed on behalf of defendant appellant petitioner, Patrick J. Schottler, and considered by the court,

IT IS ORDERED that the petition for review is denied, with out costs.

STATE OF WISCONSIN
IN SUPREME COURT

State of Wisconsin
Plaintiff-respondent,
v. Oct 23, 1997
Patrick J. Schottler,
Defendant-Appellant-Petitioner.

RESOPNSE IN OPPOSITION TO PETITION FOR REVIEW

Pursuant to Rule 809.62, stats., the State of Wisconsin, by its undersigned attorneys, opposes the petition for review ("petition") for the following reasons:

1. The court of appeals applied the correct principles of law and correct standards of appellate review. Ther is no basis for further review by this court.
2. This case presents no significant question of state or federal constitutional law. Rule 809.62(1) (a), Stats.
3. There is no need for this court to consider establishing, implementing or changing a policy within its authority. Rule 809.62(1)(b), Stats.
4. There is no need for this court to develop, clarify or harmonize the law. Rule 809.62(1)(c),Stats.
5. The court of Appeals' decision does not conflict with controlling precedent. Rule 809.62(1) (d), Stats.
6. There is no need to reexamine current law. Rule 809.62(1)(e), Stats.
7. The court of appeals' decision has not been recommended for publication, and will have no precedential effect.
8. The interests of justice do not warrant further review in this case.

THEREFORE, the state respectfully requests that this court deny the petition for review.

Dated this 23rd day of October, 1997

James I. Doyle
Attorney General

Mary E. Burke
Assistant Attorney General

Attorneys for Pliantiff
Respondent

Wisconsin Department of Justice
Pos Office Box 7857
Madison, Wisconsin 53707-7857
(609) 266-0323

Foot note by Pat Schottler

I can not let this letter go with out commenting on Att Generals reason 2. "this case presents no significant question of state or federal constitutional law".

NO SIGNIFICANT QUESTION" means there IS a question. The attorney general didn't think it was an important question. and wrote the replie to appear as though there were "NO QUESTION" of Constitutional law.

Second thing according to the state of Wisconsin words are a crime, Then why aren't they put in jail for there words?

Third is responce number 7. Since the court of appeals responce is not recomended for publication it will have no precedential effect.

This responce voids all previous reasons and states since no one will find out it doesn't matter.

Anyone who has taken an oath to support the Constitution and follows those laws, would find this letter as a whole, PROVOCATIVE.

IN ST CROIX COUNTY COURT OF WISCONSIN

From case 95CM509
State of WI vs Patrick J. Schottler
St. Croix County Jan 6, 1997

Mr. Ericson is the Prsecutor in Wi Circuit Court of St. Croix County.

Judge Lundel is Circuit Judge. of St. Croix County

Defendant is Pat Schottler

This is some exerpts from transcript that is defective.

THE COURT: -- and you were fairly, okay. Now I understand -- I can't imagine anyone who likes being convicted. I understand you don't like it. But the fact is you were convicted, okay. So we have to go to the next phase here and that's the sentencing phase. and --

THE DEFENDANT; I object to the sentencing under violation of the 6th amendment.

THE COURT: And your objection is denied, okay. We are going to proceed. Mr. Erickson what's your --

THE DEFENDANT: I object to the sentencing upon the prosecution's cross-examination or neglect. It was -- obviously the only evidence against me was written with pen and paper which falls under 1st Amendment. In which it states no law shall -- can be passed forbidding speech. The question are words written on paper, speech. Under Supreme Court Rule 60.02 a Judge should support the United States and Wisconsin Constitutions and fearlessly observe and apply their limitations and guarantees. My -- my case should be dismissed under the 1st Amendment.

THE COURT: All right. So noted. You're overruled. Motion for new trial is denied on that basis.

THE DEFENDANT: That was motion to dismiss the case. Another motion --

THE COURT Okay, motion to dismiss is denied.

THE DEFENDANT: Another motion to dismiss the case, I object on the -- 9th Amendment as it states just because the right is not listed does not mean it's not covered. In other words, the 1st Amendment is covered and make no mistakes of it. (Even though attached to the amendments before it are not necessarily solid on the people)#, just because it is not listed here, does not mean it is not covered.

THE COURT: Okay. Motion to dismiss on that basis is denied.

THE DEFENDANT: Make another motion. And I object under the 10th Amendment. It states that the states cannot have laws that are not protected rights of the constitution. 1st amendment guarantees the freedom of speech.

THE COURT: Okay. That request is motion to dismiss and that's denied.

THE DEFENDANT: Another motion is -- not necessary the motion, but a start in the process of another two cases under the 14th Amendment. The government officials must obey their own laws and interpretation of them since it is both your and prosecuter's interpretation that reads, just because a person is provoked makes another guilty of a crime. Therefore

(foot note) # transcript error by one who does not understand the ninth amendment.

because I am (provoked)* by both of you and (prosecutor)* for numerous reasons, one being responsibility for my conviction, you must obey your own laws and be found guilty of disorderly conduct. This is

defective transcript * transcript error

both yours and prosecutor's interpretation of the law. The law reads just because a person is provoked makes another guilty of a crime. There fore because I am provoked with both of you and the prosecutor for numerous reasons, one being responsibility for my conviction, you must obey your own laws and be found guilty of disorderly conduct. This is both yours and the prosecutor's interpretation of the law. The law reads because a person is provoked makes the accused guilty. I wanted --

THE COURT: So what are you asking there?

THE DEFENDANT: I'll have to go to a different attorney.

THE COURT: okay

THE DEFENDANT: Okay, the other thing I wanted to tell you, yes, I do respect you as a person who has a great deal of patience. And I certainly did expect to get a fair trial. But you must understand that when you reached over and

Took those letters,

Though I was not totally aware of it at that time,

that's when I lost my respect for you.

That's where I am testing your patience because

I did not get a fair trial. I don't deny that you're not a good Judge, but that is when you crossed over my line. I am a pretty reasonable person.

BREAK TO ANOTHER PORTION OF TRANSCRIPT.
(**********)

MR. ERICKSON: As a matter of fact our office is contemplating additional charges against Mr. Schottler. And I'm not prepared to say today just what may or may not happen. But Mr. Schottler just might as well be aware of that today.

THE DEFENDANT: Would you care to relate what was written in the letter.

THE COURT: We're not handling that matter. We are handling the former matter first.
------ THE DEFENDANT: See he's insinuating that I wrote something of a nature that I wrote --

THE COURT: Mr. Schottler.

THE DEFENDANT: -- to Mrs. Metzdorf, and I did not. I wished ( ) them a Merry christmas and a Happy New Year --

THE COURT: Mr. Schottler.

THE DEFENDANT: -- and that's what the letter said. And they are going to press charges against me for that, your Honor. Do you understand I am not being treated fairly here.

THE COURT: Mr. Schottler, that's another matter, another day, another time, okay. Let's deal with the Metzdorf case first. ------

BREAK TO ANOTHER PORTION OF TRANSCRIPT.
(**********)

THE COURT: Mr. Schottler, we'll note your desagreement with the charge of disorderly conduct, Okay, with the defense of 1st Amendment. Unfortunately for you, most all people disagree with you. Twelve people on the jury disagreed with you.

THE DEFENDANT: That's not necessarily true because they were not told the truth. And that's why I'm asking for a new trial.

THE COURT: And that's been denied, hasn't it. Okay, let's proceed.

BREAK TO ANOTHER PORTION OF TRANSCRIPT.
(**********)

THE DEFENDANT: You do understand that I have not been able to communicate with the person.

THE COURT: I understand that. The issue of whether you are remorseful to the Metzdorfs I think perhaps is up in the air. I know you've apologized to them, but the problem is you don't accept the fact that you've been convicted of a crime. And once that would occur I think everything that happens thereafter you would have to accept the fact that we live in a society of rules and regulations and order. And what you've done is you've caused some disorder amongst those rules.

THE DEFENDANT: Do you understand -- (The 1st Amendment)*

THE COURT: You're living by a set of rules that I don't understand. You're living by your own set of rules and your own order. And frankly, you are writing those rules and setting up the order.

THE DEFENDANT: I got to object to that.

THE COURT: And we don't quite understand what your're getting at here, okay. Now, if you're not doing that, that I've just tried to explain here, then the only set of rules and order are the ones that society has set up and you violated those rules. You've been convicted because of that. It is as simple as that. This is elementary. It is simple. And it's fundamental, okay. Pat, you're simply going to have to understand that you have to follow rules whether you like them or not. Whether you accept them or not, you have to follow these rules. And you have to follow the record of society. And

*Not in the Transcript "defendant did say"

part of that includes you don't write letters through the U.S. mail or hand -- you could have handed them to the librarian, it would have been the same effect here. You can't do something which causes someone to be provoked or disturbed to such an extent that they press charges.

THE DEFENDANT: How can a person know that.

THE TRANSCRIPT CONTINUES.

1900 DISORDERLY CONDUCT -- 947.01

Disorderly conduct, as defined in 947.01 (1) of the criminal code of Wisconsin, is committed by a person who, in a public or private-place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance.

Writen as stated by Judge Lundell

Before the defendant may be found guilty of disorderly conduct, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following two elements were present.

First, that the defendant engaged in (violent) (abusive) (indecent) (profane) (boisterous) (unreasonably loud) (or otherwise disorderly) conduct.

Second, that the conduct of the defendant, under the circumstances as they then existed, tended to cause or provoke a disturbance.

The first element of this offense requires that the defendant engaged in (violent) (abusive) (indecent) (profane) (boisterous) (unreasonabley loud) (or otherwise disorderly) conduct. This element of the offense may include physical acts or language or both.

*The general phrase "disorderly conduct" means conduct having a tendency to disrupt good order and provoke a disturbance. It includes all such acts and conduct as are of a nature to corrupt the public morals or to outrage the sense of public decency, whether committed by words or acts. Conduct is disorderly although it may not be violent, abusive, indecent,

profane, boisterous, or unreasonably loud if it is of a type which tends to disrupt good order and provoke a disturbance."

The principle upon which this offense is based is that in an organized society one should so conduct himself as not to unreasonably offend the senses or sensibilities of others in the community. This does not mean that all conduct which tends to disturb another is disorderly conduct. Only such conduct as unreasonably offends the sense of decency or propriety of the community is included. It does not include conduct which is generally tolerated by the community at large but which might disturb an oversensitive person.

The second element of this offense requires that the defendant's conduct, under the circumstances as they then existed, tended to cause or provoke a disturbance. It is not necessary that an actual disturbance must have resulted from the defendant's conduct. The law requires only that the conduct be of a type which tends to cause or provoke a disturbance, under the circumstances as they then existed. You must consider not only the nature of the conduct but also the circumstances surrounding that conduct. What is proper under one set of circumstances may be improper under other circumstances. This element requires that the conduct of the defendant, under the circumstances as they then existed, tended to cause or provoke a disturbance.

If you are satisfied beyond a reasonable doubt from the evidence in this case that the defendant engaged in (violent) (abusive) (indecent) (profane) (boisterous) (unreasonably loud) (or otherwise disorderly) conduct and that his conduct, under the circumstances as they then existed, tended to cause or provoke a disturbance, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

This short, to the point, Appendix was prepared by

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